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8

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **SOUTHERN DIVISION**

13 IN RE: TOYOTA MOTOR CORP.
UNINTENDED ACCELERATION
14 MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
15 LITIGATION
16

Case No. 8:10-ML-02151 JVS (FMOx)

**APPLICATION OF MARC M.
SELTZER FOR APPOINTMENT AS
CO-LEAD COUNSEL FOR THE
ECONOMIC LOSS CASES**

17 Date: May 13, 2010
18 Time: 9:00 a.m.
19 Place: Courtroom of the
Hon. James V. Selna
411 W. Fourth Street
20 Santa Ana, CA 92701
Courtroom 10C
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INTRODUCTION

Pursuant to the Court's April 14, 2010 Order No. 1: Initial Conference and the Court's April 19, 2010 Order Re Clarifying the Scope of Applications, Marc M. Seltzer of the law firm of Susman Godfrey L.L.P. hereby respectfully applies to be appointed as Co-Lead Counsel for the economic loss cases in MDL No. 2151, in accordance with the proposed case management structure set forth in Section II.A. of the April 30, 2010 *Joint Preliminary Report*, filed by Elizabeth J. Cabraser, Steve Berman and Marc M. Seltzer concurrently with this application.¹

APPLICATION OF MARC M. SELTZER

In this application, I address the main criteria for appointment set forth in the Court's Order No. 1.²

First, as set forth below, I have extensive experience in prosecuting and defending complex litigation, including class actions.

Second, I and the members of my firm are willing and have the ability to commit to a time-consuming process. If appointed by the Court to serve as Co-Lead Counsel for the economic loss cases, I commit to dedicate whatever time is necessary to successfully manage and prosecute these cases.

Third, throughout my career I believe I have demonstrated my ability to work cooperatively and collegially with others. Over the years of my practice as a lawyer, I have worked with many other attorneys in scores of different cases and believe I earned the respect, trust and confidence of those attorneys. Further,

¹ The *Joint Preliminary Report* is also being submitted by Cari K. Dawson, designated counsel for the Toyota defendants. Counsel for the Toyota defendants did not participate in the preparation of the portion of the Report dealing with case organizational matters pertaining to plaintiffs' counsel.

² My firm is counsel of record for plaintiffs in the following class action cases included in these MDL proceedings: *Roz Schwartz v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. CV 10-00710 JVS (FMOx); *Katy Boyask v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. CV 10-01153 JVS (FMOx); and *Meredith Heller v. Toyota Motor Sales, U.S.A., Inc., et al.*, Case No. CV 10-01979 JVS (FMOx).

1 pursuant to the Court's Order No. 1, I have taken part in extensive discussions with
2 Elizabeth J. Cabraser, Steve Berman, other attorneys for plaintiffs and counsel for
3 defendants in order to prepare the *Joint Preliminary Report* filed with the Court this
4 day.

5 Fourth, with eighty-eight attorneys working in offices in Los Angeles,
6 Houston, Seattle, Dallas and New York, my law firm is one of the largest law firms
7 in the country handling contingent litigation on behalf of plaintiffs. My firm's
8 practice is dedicated exclusively to litigating and trying lawsuits. My firm has
9 represented clients in some of the largest and most complex cases ever litigated and
10 has demonstrated that it has the ability and resources to handle those cases
11 effectively and efficiently. In addition, my firm has put together a team of lawyers
12 for this important litigation who have the breadth of knowledge and experience to
13 successfully prosecute this litigation. That team includes, besides myself, my
14 partners Stephen D. Susman and Kenneth S. Marks of our Houston office, and
15 David H. Orozco and Steven G. Sklaver of our Los Angeles office. My firm is
16 committed to deploy whatever logistic and financial resources are necessary to
17 successfully prosecute these cases.

18 Before turning to my application, I wish to advise the Court that we
19 recommend that Steve Berman and Wiley Aitken be appointed as Co-Lead Counsel
20 for the economic loss cases in accordance with the structure proposed in the *Joint*
21 *Preliminary Report* filed with the Court. We also recommend the appointment of
22 Elizabeth J. Cabraser and Mark R. Robinson, Jr. to be Co-Liaison Counsel for
23 plaintiffs. Each of these individuals are attorneys of the highest caliber who are
24 well known for their exceptional skills as lawyers and managers of complex
25 litigation, and I believe that, working together, we will be able to effectively and
26 efficiently supervise and manage this complex litigation. We also wish to
27 recommend to the Court for appointment to leadership positions the attorneys set
28 forth in the Joint Application of Elizabeth J. Cabraser, Steve Berman and Marc M.

1 Seltzer in Support of Appointment to Leadership Positions in This Litigation, filed
2 concurrently herewith.

3 In further support of this application, I wish to advise the Court as follows:

4 I have practiced law in California for more than thirty-five years, and have
5 extensive experience in representing plaintiffs and defendants in complex litigation,
6 including class actions. My work in class action litigation began with the *Equity*
7 *Funding* securities litigation, M.D.L. No. 142, which consisted of more than 100
8 consolidated class and individual cases. The case settled in 1976 for over
9 \$60 million, then the largest recovery ever achieved in a securities fraud class
10 action. See *In re Equity Funding Corp. of America Securities Litigation*, 438 F.
11 Supp. 1303 (C.D. Cal. 1977). I have been counsel for plaintiffs and defendants in
12 many other class actions since then. In the mid-1980's, I was appointed by the
13 Court to serve as sole lead counsel to represent the plaintiff class in the *ZZZZ Best*
14 securities fraud case. The *ZZZZ Best* fraud was described by the United States
15 Attorney for the Central District of California as "the most massive and elaborate
16 securities fraud perpetrated on the West Coast in over a decade." The case was
17 settled for more than \$40 million and resulted in several important published
18 decisions sustaining plaintiffs' claims. See *In re ZZZZ Best Securities Litigation*,
19 864 F. Supp. 960 (C.D. Cal. 1994).

20 More recently, I was appointed by the Court to serve as co-lead counsel in
21 *In Re Korean Air Lines Co., Ltd. Antitrust Litigation*, an antitrust price-fixing case
22 pending in the Central District of California, and lead counsel in *McGuire v.*
23 *Dendreon Corp.*, a securities fraud class action case pending in the Western District
24 of Washington. I also have served as lead or co-lead counsel for the plaintiffs in
25 numerous other class action and complex cases including:
26
27
28

- 1 ▪ *In Re Universal Service Fund Telephone Billing Practices Litigation*,
2 an M.D.L. proceeding involving more than fifty class action cases
3 consolidated in the District of Kansas, in which I, together with David
4 Orozco, and other attorneys with my firm, served as co-lead trial
5 counsel for plaintiffs. The case was settled as to one defendant for
6 benefits to the class totaling \$25 million, and tried to verdict as to the
7 remaining defendant. The jury found in favor of the defendant on the
8 antitrust claim and returned a verdict in favor of plaintiffs on the
9 breach of contract claim which is currently on appeal in the Tenth
10 Circuit. The trial court issued numerous published decisions in this
11 matter. *See, e.g., In Re Universal Service Fund Telephone Billing*
12 *Practices Litigation*, 300 F. Supp.2d 1107(D. Kan. 2003). In that case,
13 in addition to serving as trial counsel, I also argued an interlocutory
14 appeal to the Tenth Circuit and obtained a ruling in favor of the
15 plaintiff class. *See In Re Universal Service Fund Telephone Billing*
16 *Practices Litigation*, 428 F.3d 940 (10th Cir. 2005).
17
18 ▪ *Masimo Corp. v. Tyco Healthcare L.P.*, an antitrust case brought on
19 behalf of a medical device manufacturer, in which I, together with
20 Stephen D. Susman and other Susman Godfrey lawyers, served as
21 counsel for the plaintiff. The case was tried to a verdict resulting in a
22 jury award in favor of our client. A new trial was granted as to
23 damages. On retrial of damages, the Court awarded approximately
24 \$45 million in damages (after trebling). The Ninth Circuit recently
25 affirmed the liability verdict and damages award.
26
27 ▪ *White v. NCAA*, an antitrust class action brought in the Central District
28 of California challenging limitations on financial assistance provided

1 by colleges and universities to student athletes. I served as co-lead
2 counsel for the plaintiff class, assisted by my partners, Steven G.
3 Sklaver and Stephen E. Morrissey. After plaintiffs defeated the
4 NCAA's motion to dismiss and obtained certification of the class, the
5 case was settled for benefits for the class totaling approximately
6 \$220 million.

7
8 ■ *In re Structured Settlement Litigation*, consolidated class actions
9 brought in the Los Angeles County Superior Court, in which I served
10 as one of the lead counsel for the plaintiffs. The plaintiffs were parties
11 to structured settlements who were victimized by the alleged
12 fraudulent conversion of U.S. Treasury bonds backing their
13 settlements. The case was settled for approximately \$135 million.

14
15 ■ *Livid Holdings, Ltd. v. Salomon Smith Barney, Inc.*, a securities fraud
16 case brought in the Western District of Washington on behalf of an
17 investor in a start up company. I was retained to represent the plaintiff
18 on appeal following the dismissal of the action by the trial court, and
19 was successful in overturning the dismissal of the case. *See Livid*
20 *Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940 (9th Cir.
21 2005). The case was subsequently settled.

22
23 ■ *In Motorcar Parts & Accessories Securities Litigation*, fourteen
24 consolidated securities fraud class actions brought in the Central
25 District of California in which I was appointed by the Court to serve as
26 sole lead counsel for the class. *See Z-Seven Fund, Inc. v. Motorcar*
27 *Parts & Accessories*, 231 F.3d 1215 (9th Cir. 2000). The case was
28 settled for \$7.5 million.

- 1 ▪ *In re IDB Communications Group, Inc. Securities Litigation*,
2 consisting of more than twenty consolidated securities class actions
3 brought in the Central District of California, in which I served as one
4 of four co-lead counsel appointed by the Court to represent the
5 plaintiff class. The case was settled for \$75 million.
6
- 7 ▪ *In re Taxable Municipal Bond Securities Litigation*, in which I served
8 on Plaintiffs' Executive Committee, and together with plaintiffs' lead
9 counsel, supervised and managed every aspect of the litigation. This
10 case was a consolidated M.D.L. proceeding brought in the Eastern
11 District of Louisiana on behalf of defrauded purchasers of taxable
12 municipal bonds. The case resulted in numerous reported decisions on
13 important recurring issues arising under the federal securities laws.
14 *See, e.g., In re Taxable Municipal Bond Litigation*, [1993 Transfer
15 Binder] Fed. Sec. L. Rep. (CCH) 97,742 (E.D. La. 1993). The case
16 was settled for approximately \$110 million.
17
- 18 ▪ *Slaven v. B. P. America, Inc.*, I served as co-lead counsel for the
19 plaintiffs in a class action brought in the Central District of California
20 on behalf of fishermen and business owners for economic losses
21 suffered as a result of the spill of more than 200,000 gallons of crude
22 oil from a tanker off the coast of Huntington Beach, California that
23 befouled coastal waters and nearby beaches. The case was brought
24 under the Trans-Alaska Pipeline Authorization Act, admiralty law and
25 the law of California, and resulted in several published decisions in the
26 district court and the Ninth Circuit. *See, e.g., Slaven v. B. P. America,*
27 *Inc.*, 973 F.2d 1468 (9th Cir. 1992). The case was settled for
28 \$4 million.

1 My curriculum vitae, which lists other cases in which I served as counsel, is
2 attached hereto as Exhibit A.

3 As stated above, my firm and I are willing to commit the time and financial
4 and logistical resources necessary to successfully prosecute this case on behalf of
5 plaintiffs. Founded in 1980, Susman Godfrey L.L.P. focuses its internationally
6 recognized legal practice on handling high-stakes, complex commercial litigation
7 for both plaintiffs and defendants. The firm has offices in Houston, Dallas,
8 Los Angeles, Seattle, and New York. Each of the firm's 88 attorneys devotes all of
9 his or her time and talent to representing clients in complex litigation. In 2005, the
10 American Lawyer held the first-ever "Litigation Boutique of the Year" competition,
11 and our firm was named one of the two top litigation boutiques in the nation. I
12 believe we have the skill, experience, resources and ability to prosecute this
13 litigation in an effective and efficient manner.

14 We have assembled a team of experienced trial lawyers to provide the
15 resources needed to successfully prosecute this litigation. Specifically, my partners,
16 Stephen D. Susman, Kenneth S. Marks, Steven G. Sklaver and David H. Orozco, as
17 well as necessary associates, are committed to assisting me as part of the trial team
18 that would prosecute this action. Mr. Susman was named by International
19 Commercial Litigation as Litigator of the Year in 1997, and the top litigator in the
20 United States in 1996. Mr. Susman also was featured in *The National Law*
21 *Journal's* June 5, 2006 issue as one of the nation's top 10 litigators. Don Vinson, in
22 his book, *America's Top Trial Lawyers*, ranks Susman among the 14 best trial
23 lawyers in the United States. More recently, a January 20, 2010 article in *The*
24 *Business Insider Law Review*, listed Mr. Susman as one of the top eleven lawyers in
25 the country.

26 Mr. Susman obtained a landmark victory as a plaintiff's attorney in 1980
27 with an award of more than \$550 million to victims of a nationwide price-fixing
28 conspiracy, the largest recovery of its time. I also assisted in the prosecution of this

1 litigation while I was at my prior firm, Corinblit & Seltzer, a Professional
2 Corporation. As the Court knows, in July 2006, Mr. Susman, with a team that
3 included David Orozco, tried an antitrust action brought by Applied Medical
4 against Johnson & Johnson, where a defense verdict was returned by the jury. In
5 1999, Mr. Susman successfully tried the longest civil jury trial ever held in Detroit,
6 Michigan. Mr. Susman was co-lead counsel in the *Vitamins Antitrust* class action
7 case that settled for over \$1 billion. I was the next most senior Susman Godfrey
8 attorney working on that matter. In 2000, Mr. Susman successfully settled an
9 antitrust case against Microsoft on the eve of trial in Salt Lake City. A list of Mr.
10 Susman's trials is set forth in his curriculum vitae attached hereto as Exhibit B.

11 Messrs. Marks, Sklaver, and Orozco also have extensive class action and trial
12 experience in cases brought in both state and federal courts. In *In re Alcatel*
13 *Securities Litigation*, Mr. Susman and Mr. Marks, were co-lead counsel for a class
14 of shareholders of Alcatel, a French telecommunications company, and obtained
15 settlements totaling \$75 million. In *In re Fleming Securities Litigation*, MDL No.
16 1530, Mr. Marks was co-lead counsel for a class of former shareholders of Fleming
17 Companies, which declared bankruptcy in 2003, and obtained settlements totaling
18 \$94 million. Mr. Marks also was co-lead counsel in a securities class action case
19 arising out of the elimination of Genzyme Corp.'s Biosurgery Division stock. Mr.
20 Marks helped obtain a \$64 million settlement for the class in late 2007 days before
21 trial was to commence in the Southern District of New York.

22 In addition, Mr. Marks was retained by the bankruptcy estate of Enron
23 Corporation to pursue claims against ten commercial and investment banks. The
24 claims alleged that Enron's financial statements had been distorted as a result of
25 complex transactions that had been engineered with the active involvement of the
26 banks. Between 2004 and 2006, Mr. Marks negotiated settlements with the
27 commercial and investment banks on Enron's behalf, helping bring billions of
28 dollars to the Enron bankruptcy estate and creditors.

1 Mr. Sklaver has handled a wide variety of complicated, high-stakes
2 commercial disputes and class actions for plaintiffs and defendants. Mr. Sklaver
3 worked closely with me on the *White v. NCAA* class action. Mr. Sklaver
4 represented one of the world's largest retailers in the defense of a four-month long
5 jury trial, wage and hour class action then-pending in California state court. Mr.
6 Sklaver is currently involved in another employment class action pending in
7 Kentucky.

8 Mr. Orozco has tried to verdict a number of cases in state and federal courts
9 across the country. Mr. Orozco and I were co-trial counsel in *In Re Universal*
10 *Service Fund Telephone Billing Practices Litigation*. Prior to that, Mr. Orozco
11 represented one of the world's largest retailers in the defense of a three-month long
12 jury trial, wage and hour class action then pending in Minnesota state court.
13 Mr. Orozco is also working with me in representing the plaintiffs in *In Re Korean*
14 *Air Lines Co., Ltd. Antitrust Litigation*, a price-fixing class action case pending in
15 the Central District of California

16 Their respective curriculum vitae are attached as Exhibit C, Exhibit D, and
17 Exhibit E, respectively.

18 **ATTORNEYS' FEES**

19 In response to the Court's orders, Elizabeth J. Cabraser, Steve Berman and
20 I have set forth a response to the Court's inquiry regarding attorneys' fees. While I
21 presently anticipate applying to be compensated on a percentage basis out of any
22 common fund created in this case in accordance with the law applicable to such
23 awards, I wish to advise the court that my regular hourly rate charged to clients on
24 non-contingent matters is \$850 per hour. The hourly rates of the other Susman
25 Godfrey L.L.P. team members are as follows: Stephen D. Susman: \$1100; Kenneth
26 S. Marks: \$700; Steven G. Sklaver: \$500; David H. Orozco: \$450. A schedule of
27 my firm's current hourly rates is attached as Exhibit F hereto.
28

CONCLUSION

For the reasons stated above, it is respectfully submitted that I be appointed one of the Co-Lead Counsel for the economic loss cases in the M.D.L. proceeding. I would be pleased to respond to any questions the Court has concerning this application.

Dated: April 30, 2010.

Respectfully submitted,

MARC M. SELTZER
STEVEN G. SKLAVER
DAVID H. OROZCO
SUSMAN GODFREY L.L.P.

By /s/ Marc M. Seltzer
Marc M. Seltzer
Attorneys for Plaintiff
Meredith Heller

Exhibit A

SUSMAN GODFREY L.L.P.

Marc M. Seltzer Partner

Los Angeles, California
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MARC M. SELTZER, born in Los Angeles, California;
admitted to the California bar, 1972.



EDUCATION

- University of California at Berkeley (B.A., 1969)
- UCLA School of Law (J.D., 1972)

PUBLICATIONS

- Co-author, California Federal Civil Rules (LexisNexis 2010);
- Co-author, California Antitrust and Unfair Competition Law (Third 2003), published by the Antitrust and Unfair Competition Law Section, State Bar of California;
- "Choosing Between Class and Derivative Actions," published in Second Annual Institute, Class and Derivative Litigation in the 1990's - The New Frontier (Prentice Hall Law & Bus. 1991); and the same topic for subsequent Annual Institutes;
- "Measures of Damages in Private Actions for Violations of the Federal Securities Laws: The Basic Rules and Selected Problems," published in Securities Litigation 1990 (PLI 1990);
- "Shareholders' Derivative Suits in Contests for Corporate Control," published in Securities Litigation 1986: Prosecution and Defense Strategies (PLI 1986)

PROFESSIONAL AFFILIATIONS

- United States Courts of Appeals for the Fifth, Ninth, Tenth, and Eleventh Circuits
- United States District Courts for the Central, Southern, Eastern, and Northern Districts of California
- United States District Court for the Eastern District of Texas
- Past Vice-Chair of the Executive Committee, Antitrust and Unfair Competition Law Section, State Bar of California
- Past President and current member of the Board of Directors of the Ninth Judicial Circuit Historical Society, past President and current member of the Board of Directors of the Legal Aid Foundation of Los Angeles, member of the Board of Directors of the National Equal Justice Library, member of the Board of Directors, American Friends of Hebrew

University, Western Region, and member of the Board of Trustees of the Lawyers Committee for Civil Rights Under Law

- American Bar Association (and its Business Law, Antitrust Law, Torts and Insurance Law, and Litigation Sections)
- American Law Institute
- American Association for Justice
- Consumer Attorneys of California
- Selden Society

HONORS & DISTINCTIONS

- Recipient, 2004 American ORT Jurisprudence Award
- Named a "Super Lawyer" by Southern California Law & Politics magazine (2004-2010)
- Named one of Law Dragon's 500 Leading Plaintiff's Lawyers (2007)
- Named one of Law Dragon's 100 Lawyers You Need To Know in Securities Litigation (2008)

Marc Seltzer has practiced law for more than thirty-five years, litigating complex business law cases in state and federal courts throughout the United States. He was a principal in the law firm of Corinblit & Seltzer, a Professional Corporation, before joining Susman Godfrey. Marc Seltzer's relationship with the lawyers of Susman Godfrey began in the late 1970's, when Steve Susman and Marc Seltzer worked together on the *Corrugated Container* antitrust case. In the ensuing years, Mr. Seltzer and the lawyers of Susman Godfrey worked together on a number of other cases. In February 1998, Marc Seltzer became a partner of the firm, and opened the firm's Los Angeles office. Since then, the firm's Los Angeles office has become one of the leading litigation boutiques in California.

Marc Seltzer's involvement in nationally prominent litigation began in the mid-1970's, when he was tapped by Jack Corinblit to work on the massive *Equity Funding* securities litigation. That case consisted of more than 100 consolidated class and private action cases, and was settled in 1976 for over \$60 million, then the largest recovery ever achieved in a securities fraud class action. See *In re Equity Funding Corp. of America Securities Litigation*, 438 F. Supp. 1303 (C.D. Cal. 1977). Later, in the 1980's, Mr. Seltzer was appointed by the Los Angeles federal court to serve as sole lead counsel to represent the plaintiff class in the *ZZZZ Best* securities fraud case. The *ZZZZ Best* fraud was described by the United States Attorney for the Central District of California as "the most massive and elaborate securities fraud perpetrated on the West Coast in over a decade," harking back to the *Equity Funding* case. The case was settled for more than \$40 million and resulted in several important published decisions sustaining plaintiffs' claims. See *In re ZZZZ Best Securities Litigation*, 864 F. Supp. 960 (C.D. Cal. 1994). Marc Seltzer was, together with Steve Susman, a member of the Susman Godfrey trial team representing approximately 90 financial institutions in a negligent misrepresentation case against one of the "Big Four" accounting firms. That case settled just prior to the commencement of trial. Marc Seltzer also teamed with Steve Susman in prosecuting the *In re Vitamin Antitrust Litigation*, which was settled pursuant to agreements that made more than \$1.05 billion available to the class.

Mr. Seltzer has also been appointed to serve as lead counsel for the plaintiffs in numerous securities, antitrust and other class action cases. He also represented defendants in antitrust, securities and other complex commercial litigation. Among the cases Mr. Seltzer has litigated are:

In Re Universal Service Fund Telephone Billing Practices Litigation, an antitrust and breach of contract class action involving more than fifty consolidated cases in which Marc Seltzer, together with Barry Barnett and David Orozco, served as co-lead trial counsel for plaintiffs. The case was settled as to one defendant for benefits to the class totaling \$25 million, and tried to a verdict as to the remaining defendants. The jury found in favor of defendants on the antitrust claim and

returned a \$16 million verdict in favor of plaintiffs on the breach of contract claim which is currently on appeal in the Tenth Circuit. The trial court issued numerous published decisions in this matter. See, e.g., *In Re Universal Service Fund Telephone Billing Practices Litigation*, 300 F. Supp.2d 1107(D. Kan. 2003).

Masimo v. Tyco Healthcare L.P., an antitrust case in which Marc Seltzer, together with Steve Susman, Vineet Bhatia and Stephen Morrissey, served as co-trial counsel for the plaintiff. The case was tried to a verdict resulting in an award in favor of our client. A new trial was granted as to damages. On retrial, the Court awarded approximately \$45 million in damages (after trebling). The Ninth Circuit affirmed the liability verdict and damages award.

White v. NCAA, an antitrust class action brought in Los Angeles federal court challenging limitations on financial assistance provided by colleges and universities to student athletes. Marc Seltzer, together with Stephen Morrissey and Steven Sklaver, served as co-lead counsel for the plaintiff class. The case was settled for benefits for the class totaling approximately \$220 million.

In re Structured Settlement Litigation, consolidated class actions brought in the Los Angeles Superior Court in which Marc Seltzer served as one of the lead counsel for the plaintiffs. The plaintiffs were parties to structured settlements who were victimized by the alleged fraudulent conversion of U.S. Treasury bonds backing their settlements. After three years of hotly contested litigation, the case was settled for approximately \$135 million.

Livid Holdings, Ltd. v. Salomon Smith Barney, Inc., a securities fraud case brought on behalf of an investor in a start up company. Marc Seltzer was retained to represent the plaintiff on appeal following the dismissal of the action by the trial court, and was successful in overturning the dismissal of the case. See *Livid Holdings Ltd. v. Salomon Smith Barney, Inc.*, 416 F.3d 940 (9th Cir. 2005). The case was subsequently settled.

In Motorcar Parts & Accessories Securities Litigation, fourteen consolidated securities fraud class actions in which Marc Seltzer was appointed by the Los Angeles federal court to serve as lead counsel for the class. The case was settled for \$7.5 million in cash. See *Z-Seven Fund, Inc. v. Motorcar Parts & Accessories*, 231 F.3d 1215 (9th Cir. 2000).

In re IDB Communications Group, Inc. Securities Litigation, in which Marc Seltzer served as one of four co-lead counsel appointed by the Los Angeles federal court to represent the plaintiff class in more than twenty consolidated securities fraud class action cases. The case was settled for \$75 million.

In re Taxable Municipal Bond Securities Litigation, in which four lawyers, including Marc Seltzer, served on Plaintiffs' Executive Committee, and together with plaintiffs' lead counsel, supervised and managed every aspect of the litigation. This case was a consolidated multi-district proceeding brought on behalf of defrauded purchasers of taxable municipal bonds. The case resulted in numerous reported decisions on important recurring issues arising under the federal securities laws. See, e.g., *In re Taxable Municipal Bond Litigation*, [1993 Transfer Binder] Fed. Sec. L. Rep. (CCH) 97,742 (E.D. La. 1993). After several years of intense litigation, the case was settled for approximately \$110 million.

Cowles v. Gannett Outdoor Co., Inc., of Southern California, coordinated class actions brought in Los Angeles federal court for an alleged conspiracy to suppress competition for leases for billboards sites in Southern California in violation of § 1 of the Sherman Act. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$6.5 million in cash.

Slaven v. B. P. America, Inc., a class action brought in Los Angeles federal court on behalf of fishermen and business owners for economic losses suffered as a result of the spill of more than 200,000 gallons of crude oil from a tanker off the coast of Huntington Beach, California that befouled coastal waters and nearby beaches. The case was brought under the Trans-Alaska Pipeline Authorization Act, admiralty law and the law of California, and resulted in several

published decisions in the district court and the Ninth Circuit. *See, e.g., Slaven v. B. P. American, Inc.*, 973 F.2d 1468 (9th Cir. 1992). Marc Seltzer served as co-lead counsel for the class. The case was ultimately settled for \$4 million in cash, plus court-approved attorneys' fees and costs.

In re Carnation Company Securities Litigation, consolidated class actions for violation of the federal securities laws brought in Los Angeles federal court. The plaintiffs alleged that false denials were made relating to the potential takeover of Carnation Company by Nestle, S.A., before the merger of the two firms was announced. Marc Seltzer served as co-lead counsel for the class. The case was settled for \$13 million in cash.

In re International Technology Securities Litigation, consolidated securities class actions filed in Los Angeles federal court. The plaintiffs alleged that the Company's financial statements were materially misleading for failing to earlier write off or set up appropriate accounting reserves relating to the Company's off-site waste disposal operations. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$12 million in cash and newly-issued securities.

Guenther v. Cooper Life Sciences, Inc., a combined stockholders class and derivative action brought in San Francisco federal court for alleged false and misleading statements regarding the Company's products and prospects. Marc Seltzer served as co-lead counsel for plaintiffs. The case was settled for \$9.85 million in cash and non-cash economic benefits valued to be worth at least \$8.3 million.

Heckmann v. Ahmanson, consolidated class and derivative actions arising out of the alleged "greenmailing" of the Walt Disney Co. by Saul Steinberg and a group of his companies. Marc Seltzer was one of the lead counsel for the class of investors. The case was settled after three weeks of trial for approximately \$60 million. *See Heckmann v. Ahmanson*, [1989 Transfer Binder] Fed. Sec. L. Rep. ¶ 94, 447 (Cal. Sup. Ct. April 12, 1989) (order denying summary judgment).

Financial Federation, Inc. v. Ashkenazy, in which Marc Seltzer and his co-trial counsel successfully defended an anti-takeover case brought in Los Angeles federal court under the federal securities laws and the RICO statute by a financial institution against persons who allegedly sought to take control of the institution. *See Financial Federation, Inc. v. Ashkenazy*, [1984 Transfer Binder] Fed. Sec. L. Rep. (CCH) 91,489 (C.D. Cal. 1983).

Green v. Occidental Petroleum Corp., in which Marc Seltzer, together with co-counsel, represented plaintiffs in consolidated securities fraud class action cases that established important precedent in the Ninth Circuit regarding the certification of plaintiff classes and the computation of damages in securities fraud cases. *See Green v. Occidental Petroleum Corp.*, 541 F.2d 1335 (9th Cir. 1976). The case was settled for \$12 million.

Wool v. Tandem Computers, Inc., a securities fraud class action in which Marc Seltzer played a leading role. One of the notable achievements in this case was a victory for the plaintiffs in the Ninth Circuit which established important precedent concerning the measure of damages recoverable in federal securities fraud class action cases, the standard for "controlling person" liability under the federal securities laws and the requirements for pleading fraud with the particularity specified under Rule 9(b), Fed.R. Civ. P. *See Wool v. Tandem Computers, Inc.*, 818 F.2d 1433 (9th Cir. 1987). Following the issuance of the Ninth Circuit's opinion, the case was settled for \$16.5 million.

Plaine v. McCabe, a securities class action, in which Marc Seltzer argued before the Ninth Circuit, obtaining a substantial victory for plaintiffs, establishing significant precedent in the Ninth Circuit regarding the standards for liability for violations of tender offer disclosure rules under the federal securities laws. *See Plaine v. McCabe*, 797 F.2d 713 (9th Cir. 1986).

Biben v. Card, consolidated securities fraud class actions where Marc Seltzer served as co-lead counsel for plaintiffs. The plaintiffs achieved substantial pretrial victories, including establishing the validity of their claims under the federal securities laws against the director, accountant and

attorney defendants in that case. See *Biben v. Card*, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,010 (W.D. Mo. 1985), *on denial of motion for reconsideration*, [1984-1985 Transfer Binder] Fed. Sec. L. Rep. (CCH) 92,083 (W.D. Mo. 1985). The case settled for approximately \$12 million.

Sanwa Bank California v. Facciani, where Marc Seltzer was co-lead counsel for a plaintiff class in which settlements totaling approximately \$26 million in cash were obtained on behalf of defrauded investors who were victimized by an alleged Ponzi scheme.

In re California Indirect-Purchaser Infant Formula Antitrust Class Action Litigation, comprised of several consolidated consumer class actions brought for the alleged price-fixing of infant formula products. Marc Seltzer was appointed by the court to serve as one of two co-lead counsel for plaintiffs and the class. The case was settled for approximately \$20 million.

Small v. Sunset Park, where Marc Seltzer was lead counsel for a class of investors involving an alleged Ponzi scheme in which settlements totaling more than \$16.8 million were obtained, including \$12 million paid in settlement by a then "Big Five" accounting firm.

Schneider v. Traweek, federal and state court securities class actions in which Marc Seltzer was lead counsel for the plaintiffs. Significant victories were obtained on plaintiffs' behalf in defeating motions to dismiss and in obtaining class certification. See *Schneider v. Traweek* [1990 Transfer Binder] Fed. Sec. L. Rep. (CCH) 95,419 and 95,505 (C.D. Cal. 1990). The case was settled for approximately \$14 million.

Johnson v. Boston, where Marc Seltzer was co-lead counsel for a nationwide class of investors victimized by an alleged Ponzi scheme. Approximately \$20 million in settlements were obtained for the defrauded investors.

Lilienthal v. Levi Strauss & Co., and individual minority shareholder's action for alleged breach of fiduciary duty by the majority owners, which resulted in a judgment after trial for the plaintiff providing for a recovery in excess of \$3 million. Marc Seltzer was co-trial counsel with Jack Corinblit.

In 1972 and 1973, Marc Seltzer was a Deputy Attorney General for the State of California. In 1985, Mr. Seltzer was elected to the membership of the American Law Institute.

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**Nothing on this web page is intended to represent that Susman Godfrey currently represents any particular clients mentioned because matters and client relationships naturally terminate from time to time.

Exhibit B

SUSMAN GODFREY L.L.P.

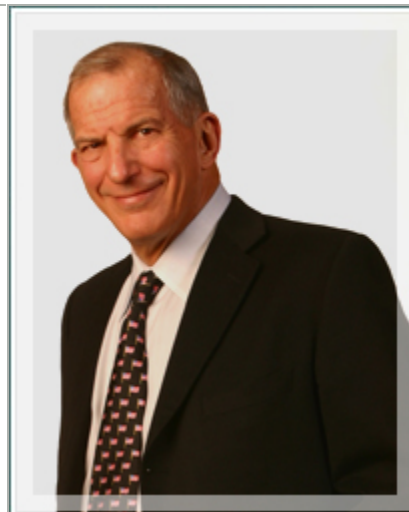
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New York, New York
Phone: 212.336.8331
Fax: 212.336.8340

ssusman@susmangodfrey.com*

STEPHEN D. SUSMAN, P.C., born Houston, Texas; admitted to bar, 1965, Texas; 1999, District of Columbia; 2000, New York; 2002, Colorado.



Stephen Susman is among a small group included in *The Best Lawyers in America* for 25 years and most recently, he has been recognized for two consecutive years by *Who's Who Legal: The International Who's Who of Business Lawyers* as the **2006 and 2007 Leading Commercial Litigator in the World**. *Who's Who Legal: Texas 2007* has also acknowledged Susman in both the Commercial Litigation and Unfair Competition categories. He was featured in *The National Law Journal's* June 5, 2006 issue as one of the nation's top 10 litigators. *Texas Super Lawyers* has named him as one of the top 10 lawyers in Texas in 2003-2009. Susman was listed in the 2008 *Lawdragon 500 Leading Lawyers in America* with the comment: "This legendary litigator is hot when it comes to global warming suits, getting TXU reforms for 37 Texas cities and representing an Inuit tribe whose home was lost to environmental changes. The January 20, 2010 article in *The Business Insider, Law Review*, listed Susman as one of the eleven lawyers you definitely do not want to see across the aisle. [Click here to view the article.](#) "Susman was also featured in a February 2008 article in the [ABA Journal "The G-Man- A week in the life of a \\$1,000-per hour lawyer."](#) Jury consultant, Don Vinson, in his book, *America's Top Trial Lawyers*, ranks Susman among the 14 best trial lawyers in the United States. *International Commercial Litigation's* worldwide poll of lawyers ranked Susman as the Litigator of the Year for 1997 and the top litigator in the United States in 1996. [\[Click here to see references, list of trials, or letters of recommendation from clients.\]](#) Susman's landmark victory as a plaintiff's attorney came in 1980 with an award of more than \$550 million to victims of a nationwide price-fixing conspiracy, the largest jury verdict of its time. He has since represented both plaintiffs and defendants such as Northrop in its suit against McDonnell Douglas over the F-18 jet fighter, Speaker Jim Wright (cover of New York Times May 24, 1989) in his ethics battle, the Hunt brothers (New York Times Magazine) in the largest lender liability case in history, and the state of Arkansas in a milk price-fixing case.

Susman represents both plaintiffs and defendants pursuant to fee arrangements that compensate him for results, not effort. In March 2005, he successfully obtained a jury verdict in an antitrust treble damage action for Masimo against Tyco in federal court in Los Angeles. Immediately prior to that, he served as lead counsel to 93 financial institutions suing PwC for errors it made in the

audits of a borrower, Safety-Kleen. That case was settled the day it was scheduled to go to trial before a jury in state court in Atlanta. Susman has successfully defended Clear Channel in an antitrust case in Miami and Little Caesar's in an antitrust case in Detroit. Other former clients include: Medtronic, Ericsson, Hughes Electronics, Northrop, Decker Coal, and Amerisource Bergen. In 1999, he successfully tried the longest civil jury trial ever held in Detroit, Michigan, and was co-lead counsel in the Vitamins Antitrust case that settled for over \$1 billion. In 2000, he successfully settled a mammoth antitrust case against Microsoft on the eve of trial in Salt Lake City. Susman is currently representing the plaintiffs in numerous patent infringement cases and two monopolization cases, one in New York and one in Kentucky.

Susman has recently become a pioneer in global warming litigation. He has completed a successful representation of a coalition of 37 Texas cities opposing the permitting of coal-fired electric generating plants by TXU. This case garnered Susman Godfrey the [*National Law Journal's 2008 Pro Bono Award*](#) as well as being featured in Robert Redford's Sundance Preserve documentary *Fighting Goliath – Texas Coal Wars*. The new purchasers of TXU have agreed to suspend all the permit application that Susman was opposing. The Mayor of Dallas had this to say about Susman's efforts: "Without Susman Godfrey, we would never have gotten the result that we did, with TXU withdrawing permit applications, for all eight units that the coalition challenged. The aggressive, relentless, and comprehensive legal work that was done on this case in record time caused TXU to have to rethink its environmentally unfriendly plan. What Steve Susman and his team did will be remembered by the utility industry for a long time to come: people in this country will no longer accept the construction of dirty, old-technology, coal-fired power plants. Not even in Texas. Susman taught a Climate Change Litigation course at the University of Houston Law School and has frequently lectured on the subject for the ABA, BNA, University of Texas and Stanford. He is currently counsel to an Inuit tribe that has lost its home because of global warming. View [*Houston Business Journal*](#) article regarding the Kivalina suit against 24 energy companies in global warming litigation.

A native Houstonian from a highly respected family of lawyers, Susman worked his way through Yale University, graduating magna cum laude. Returning to his home state and the University of Texas Law School, he was Editor-in-Chief of the Law Review and graduated first in his class, with the highest grade point average in the school's history.

After serving as law clerk to The Honorable John R. Brown of the Fifth Circuit Court of Appeals, Susman clerked for the United States Supreme Court. A recent biography of then Justice Hugo Black states that Susman was the first law clerk whom Black trusted to draft opinions for him. In his early career path, Susman joined a large Houston firm and became a partner, took a year's leave of absence to teach law at the University of Texas, and hit on the magic niche that led to a new style of law practice representing plaintiffs in complex commercial disputes. In 1980, he founded Susman Godfrey, the first firm in this part of the country to limit its specialty to commercial litigation. Susman Godfrey more than 80 lawyers in offices in Houston, Dallas, Seattle, Los Angeles, and New York. In 2005, the firm was chosen by the *American Lawyer* as one of the top two litigation boutiques in the country.

As further testimony to Susman's affecting style, in 1994, four of the best trial lawyers in the country were selected to compete in the "Best of the Best Shoot-Out" at the Litigation Section of the American Bar Association's annual meeting. After final arguments by each top lawyer, the 30-person jury voted unanimously for Susman as the most persuasive. Susman has also been portrayed in John Jenkins' best seller, *The Litigators*, and in 1995, *Texas Lawyer* placed him among the ten "whose actions had the greatest impact on the Texas legal profession from 1985 to 1995." *Business Week* has called him "a lion of the Texas Bar"; *Town & Country*, "the Houston courtroom gladiator best known nationally"; the *Houston Business Journal*, "the reigning prince of Houston business litigators."

Although the stakes are high and the challenges immense in his private practice, that doesn't stop Susman from tirelessly pursuing issues of justice and reform. Teaching lawyers around the

world effective advocacy, instituting reforms in the civil justice system, and through ABA Task Forces on which he serves, improving jury comprehension, streamlining class actions, and promoting efficient trials are top priorities in his dedication to law. Currently chairman of the Discovery Subcommittee of the Texas Supreme Court's Advisory Committee, Susman has been instrumental in discovery rule revision, tantamount to making trials quicker and less expensive. A board-certified civil trial specialist, Susman is a member of the American Board of Trial Advocates.

EDUCATION

- Yale University (B.A., *magna cum laude*, 1962)
- University of Texas (J.D., with highest honors, 1965)

HONORS & DISTINCTIONS

- Fraternities: Phi Delta Phi; Order of the Coif; Chancellors, Grand Chancellor; Phi Kappa Phi
- Friars Society
- Editor-in-Chief, *Texas Law Review*, 1964-65
- Law Clerk to The Honorable John R. Brown, United States Court of Appeals, Fifth Circuit, 1965-66
- Law Clerk to Justice Hugo L. Black, United States Supreme Court, 1966-67
- Visiting Professor of Law, University of Texas, 1975
- Special Counsel to Attorney General of Texas, 1975
- Editor: "ABA Civil Antitrust Jury Instructions" 1985
- Board Certified, Civil Trial Law, Texas Board of Legal Specialization, 1978
- University of Texas School of Law Outstanding Alumnus 2001
- Distinguished Counselor Award from the Antitrust and Business Litigation Section of the State Bar of Texas (2005)
- Recognized in *Who's Who Legal: Texas 2007* as a pre-eminent lawyer in the areas of commercial litigation and competition.
- Recognized in *Chambers Global Guide: The World's Leading Lawyers as Leader in Their Field* in 2007 & 2008.
- Recognized as a *Lawdragon 500* - Leading Lawyer in America (2006-2008)
- Recognized in *Best Lawyers* in two categories: "Bet the Company" lawyers and commercial litigation (2008).
- Recognized in *BENCHMARK Litigation Guide* as one of America's Leading Litigation Attorneys (2009)

PROFESSIONAL AFFILIATIONS

- State Bar of Texas (Chairman, Section on Antitrust and Trade Regulation, 1976-77)
- District of Columbia Bar Association
- New York Bar Association
- Colorado Bar Association
- American Bar Association, Current member of the Commission on the Impact of the Economic Crisis on the Profession and Legal Needs, Section of Antitrust Law (member of Council, 1989-91), Section of Litigation (current co-chair of the Fellows Program, current member of Trial Advisory Board and Federal Practice Task Force, former co-chair of Task Force on Training the Advocate, chairman of Task Force on Fast Track Litigation, and member of Committee to Improve Jury Comprehension), and Section of Intellectual Property
- American Law Institute
- Editorial Advisory Board, BNA Civil RICO Reporter

- Advisory Board, University of Texas School of Law's Review of Litigation
- Texas Supreme Court Advisory Committee
- Director of Texas Association of Civil Trial and Appellate Specialists
- American Board of Trial Advocates
- Director of the University of Houston Law Foundation
- Charter Member of the Institute for Responsible Dispute Resolution
- Texas Supreme Court's Task Force on Civil Litigation Improvements
- National Council of Human Rights First
- Board of Lawyers' Committee for Civil Rights under Law of Texas
- MD Anderson University Cancer Foundation Board of Visitors
- The University of Texas Health Science Center Development Board
- The University Of Texas Development Board
- American Intellectual Property Law Association
- Houston Intellectual Property Law Association
- The New York Intellectual Property Law Association
- Member, Warren Burger Society
- Board Member, American Constitution Society
- Leadership Council of the Yale School of Forestry & Environmental Studies

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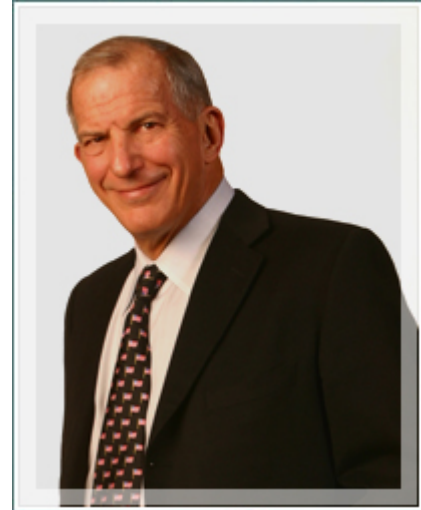
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STEPHEN D. SUSMAN, P.C., born Houston, Texas; admitted to bar, 1965, Texas; 1999, District of Columbia; 2000, New York; 2002, Colorado.



STEPHEN D. SUSMAN - TRIALS

Revised: July 29, 2009

(1976 - Present)

Style/Docket No.:	Industrial Recovery Capital Holdings Co., et al. v. Harold C. Simmons et al; Cause No. 08-02589
Court/Judge:	L-192 District Court, Dallas County, Texas, before the Honorable Craig Smith
Opposing Counsel:	Richard Sayles
Nature of Case:	Breach of fiduciary duty and breach of contract
Trial Length:	7/6-7/17/09
Represented:	Michael Murphy, Terry Casey, Industrial Recovery Capital Holdings Company, Efficasey Environmental LLC
Result Obtained:	Won \$178.7 million jury verdict

Style/Docket No.:	Paula Brattain, et al. v. Richmond State Hospital, et al. Cause No. 49D11-0108-CP-1309
Court/Judge:	Marion County Superior Court, Civil Division, Indianapolis, Indiana before The Honorable John F. Hanley
Opposing Counsel:	Donald G. Banta Patricia Orloff-Erdmann
Nature of Case:	Breach of employment contract
Trial Length:	3/10–3/13/09
Represented:	Plaintiffs (class of current and former state employees)
Result Obtained:	Won \$42.4 million judgment
Style/Docket No.:	54 Broadcasting, Inc., et al. v. LIN Television of Texas, L.P.; Cause No. 1:08-CV-030 SS
Court/Judge:	United States District Court, Western District of Texas, Austin Division, before The Honorable Sam Sparks
Opposing Counsel:	Charles Babcock Stephen McConnico
Nature of Case:	Breach of Contract and Defense of Shareholder Oppression Counterclaim
Trial Length:	2/23–2/27/09
Represented:	Plaintiffs
Result Obtained:	Confidential settlement before returned verdict
Style/Docket No.:	Northville Product Services, L.P. v. Green Earth Fuels, L.L.C., et al.; Cause No. 2007-45993
Court/Judge:	11th Judicial District, Harris County, Texas before The Honorable Mike Miller
Opposing Counsel:	David J. Beck Karl Stern
Nature of Case:	Breach of Contract/Interference with Contract

Trial Length:	2/1–2/5/09
Represented:	Northville Product Services, L.P.
Result Obtained:	Verdict for plaintiff
Style/Docket No.:	Neil Rothstein v. Law Offices of Scott & Scott, LLC, Scott & Scott Attorneys at Law, LLP and David R. Scott
Court/Judge:	Arbitration before James F. Stapleton, Iris J. Brown and Charles L. Howard in Hartford, Connecticut
Opposing Counsel:	Richard C. Robinson
Nature of Case:	Breach of contract
Trial Length:	7/14–7/17/08
Represented:	Claimant
Result Obtained:	Arbitration award for claimant and dismissal of respondents' counterclaims
Style/Docket No.:	Sky Technologies, LLC v. Ariba, Inc., Case No. 06-CA-11889
Court/Judge:	United States District for the District of Massachusetts before The Honorable William G. Young
Opposing Counsel:	Robert T. Haslam
Nature of Case:	Patent infringement
Trial Length:	12/10-12/21/07
Represented:	Plaintiff
Result Obtained:	Settled after 10 days of 13 day trial
Style/Docket No.:	Applied Medical Resources Corp. v. Ethicon, Inc., et al., Case No. SACV 03-1329 JVS (MLGx)

Court/Judge:	United States District Court, Central District of California, Southern Division, before The Honorable James V. Selna
Opposing Counsel:	John W. Treece and James W. Quinn
Nature of Case:	Antitrust
Trial Length:	7/18-8/23/06
Represented:	Plaintiff
Result Obtained:	Verdict for defendants
Style/Docket No.:	Candlewood Timber Group LLC, et al. v. Pan American Energy LLC, Civil Action No. 04C-12-139 RRC
Court/Judge:	Superior Court of the State of Delaware in and for New Castle County, before The Honorable Richard R. Coach
Opposing Counsel:	James P. Murphy
Nature of case:	Breach of contract
Trial length:	5/8-5/19/06
Represented:	Plaintiffs
Result obtained:	Settled before jury returned verdict
Style/Docket No.:	Masimo Corporation v. Tyco Health Care Group, LP, Case No. CV 02-4770 MRP (AJWx)
Court/Judge:	United States District Court, Central District of California, Western Division, before The Honorable Mariana R. Pfaelzer
Opposing Counsel:	Stephen C. Neal
Nature of Case:	Antitrust
Trial Length:	2/23 - 3/18/05

Represented:	Plaintiff
Result Obtained:	\$140 million verdict for plaintiff
Style/Docket No.:	National Health Systems, Inc., et al. v. Bergen Brunswick Drug Company d/b/a AmerisourceBergen Drug Corporation
Court/Judge:	Arbitration before The Honorable Orrin Harrison III, The Honorable Jeffrey S. Osgood, and The Honorable Melinda G. Hayson in Dallas, Texas
Opposing Counsel:	Mack Ed Swindle
Nature of Case:	Breach of Contract
Trial Length:	1/5 - 1/16/04
Represented:	Defendant
Result Obtained:	Subject to confidentiality order
Style/Docket No.:	Bull Run Corporation v. Ernst & Young, L.L.P.
Court/Judge:	Arbitration before The Honorable John G. Davies; The Honorable Charles Clark; and The Honorable Sidney O. Smith in Atlanta, Georgia
Opposing Counsel:	John A. Chandler and Thomas W. Curvin
Nature of Case:	Negligent misrepresentation and professional negligence
Trial Length:	9/3-6 and 9/8-11/03
Represented:	Plaintiffs
Result Obtained:	Confidential
Style/Docket No.:	Cavalry Investments, L.L.C. v. SunStar Acceptance, et al., No. 99-02296-D

Court/Judge:	County Court No. 4, Dallas County, Texas, before The Honorable W. Bruce Woody
Opposing Counsel:	William F. Carroll
Nature of Case:	Breach of Contract
Trial Length:	7/21/03-7/29/03
Represented:	Plaintiffs
Result Obtained:	\$41.9 million verdict for plaintiff
Style/Docket No.:	Louie Alakayak, et al. v. All Alaskan Seafoods, Inc., et al., No. 3AN-95-4676
Court/Judge:	Superior Court for the State of Alaska, Third Judicial District, before The Honorable Peter A. Michalski
Opposing Counsel:	Douglas J. Serdahely
Nature of Case:	Claims for conspiracy
Trial Length:	2/3/03-5/23/03
Represented:	Plaintiffs
Result Obtained:	Verdict for defendants
Style/Docket No.:	Residential Funding Corporation v. DeGeorge Financial Corp., et al.; Civil Action No. 3:00cv202 (JBA)
Court/Judge:	United States District Court for the District of Connecticut/Jury before The Honorable Janet Bond Arterton
Opposing Counsel:	Philip S. Beck
Nature of Case:	Claims for breach of contract and promissory estoppel
Trial Length:	9/10/01-9/24/01

Represented:	Defendant
Result Obtained:	Verdict for plaintiff
Style/Docket No.:	Raytheon Co. v. Hughes Electronics Corp.
Court/Judge:	Arbitration before The Honorable Arlin M. Adams; The Honorable George C. Pratt; and The Honorable Nicholas deB. Katzenbach in Los Angeles
Opposing Counsel:	Martin London and Eric S. Goldstein
Nature of Case:	Fraud
Trial Length:	5/9/01-5/24/01
Represented:	Defendant
Result Obtained:	Settled before panel decision issued
Style/Docket No.:	American Garment Finishers Corp. v. Levi Strauss & Co., Case No. EP-99-CV-342-EP
Court/Judge:	United States District Court for the Western District of Texas, El Paso Division/Jury before The Honorable Edward C. Prado
Opposing Counsel:	Peter H. Goldsmith and Michael D. McQueen
Nature of Case:	Claims of breach of contract and fraud involving the nation's premiere finisher of casual sportswear and blue jeans
Trial Length:	1/22/01-1/30/01
Represented:	Plaintiff
Result Obtained:	Settled
Style/Docket No.:	Victoria M. Baks, et al. v. Manuel J. Moroun; Case No. 92-438547-CZ
Court/Judge:	State of Michigan, Circuit Court for the County of Oakland/Jury before The Honorable Robert L. Templin

Opposing Counsel:	Norman L. Lippitt
Nature of Case:	Claims of shareholder oppression and breach of fiduciary duty involving one of the largest family-owned trucking companies in the United States
Trial Length:	8/5/99-10/15/99
Represented:	Plaintiffs
Result Obtained:	Settled
Style/Docket No.:	Alvarez, et al. v. Little Caesar Enterprises, Inc.; Civil Action No. M-95-245
Court/Judge:	United States District Court for the Southern District of Texas, McAllen Division/Jury before The Honorable Ricardo H. Hinojosa
Opposing Counsel:	Michael A. Caddell of Caddell & Chapman
Nature of Case:	Breach of contract and tortious interference with advantageous business relationship
Trial Length:	10/19/98-11/2/98
Represented:	Defendant
Result Obtained:	Verdict for plaintiff
Style/Docket No.:	Breezevale Limited v. Exxon Corporation; Case No. 96-08063-E
Court/Judge:	101 st Judicial District Court, Dallas County, Texas/Jury before The Honorable Jay Patterson
Opposing Counsel:	David Beck and Eric Nichols of Beck, Redden & Secrest
Nature of Case:	Breach of Oral Contract
Trial Length:	8/11/98-9/3/98
Represented:	Plaintiff

Result Obtained:	\$38.8 million verdict for plaintiff
Arbitration No.:	1410001847
Arbitrator:	Abraham D. Sofaer
Opposing Counsel:	James D. Zirin and Andrew Stern of Brown & Wood
Nature of Case:	Contract Dispute
Trial Length:	6/1/98-6/3/98
Represented:	Defendant
Result Obtained:	Arbitrator found for defendant
Style/Docket No.:	Central And South West Corporation v. El Paso Electric Company, Case No. 92-10148-FM
Court/Judge:	United States Bankruptcy Court, Western District of Texas/Nonjury before The Honorable Larry E. Kelly
Opposing Counsel:	Orrin L. Harrison, III and Russell L. Reid, Jr. of Vinson & Elkins L.L.P.; Harry M. Reasoner and Allan Van Fleet of Vinson & Elkins L.L.P.; Myron M. Sheinfeld, Henry J. Kaim, and Patricia Baron Tomasco of Sheinfeld, Maley & Kay, P.C.; Barrett Reasoner of Gibbs & Bruns
Nature of Case:	Contract dispute
Trial Length:	1/20/97 - 1/30/97
Represented:	Defendant
Result Obtained:	\$25 million for defendant
Style/Docket No.:	ATAPCO v. Intratex Gas Company; Panhandle Gas Company; and Houston Pipe Line Company, No. 95-07388-B

Court/Judge:	80th Judicial District, Harris County, Texas/The Honorable Scott R. Link (Removed to arbitration by both sides.)
Arbitrators:	Bob Gammage, Tom Alexander, Mike Beatty
Opposing Counsel:	Ronald D. Krist of Krist, Weller & Neumann, L.L.P.; Stanley J. Krist; Daniel D. King, Bruce B. Kemp, Jerry Kacal of Dunn, Kacal, Adams, Pappas & Law, P.C.; William J. Joseph, Jr. of Young & Hampton
Nature of Case:	Fraud
Trial Length:	12/11/96 - 12/16/96
Represented:	Defendants
Result Obtained:	Arbitrators found for defendants
Style/Docket No.:	Samsung v. Texas Instruments, Inc., Cause No. 94890
Court/Judge:	268th Judicial District, Fort Bend County, Texas/Jury before The Honorable Brady G. Elliott
Opposing Counsel:	David Berg of Berg & Androphy
Nature of Case:	Breach of contract, fraud
Trial Length:	11/4/96 - 11/26/96
Represented:	Defendant (Texas Instruments Inc.)
Result Obtained:	\$1.1 billion settlement in favor of Texas Instruments
Style/Docket No.:	BTA Oil Producers v. Intratex Gas Company; Panhandle Gas Company; and Houston Pipe Line Company, No. 95-07388
Court/Judge:	80th Judicial District, Harris County, Texas/Jury before The Honorable Scott R. Link
Opposing Counsel:	Ronald D. Krist of Krist, Weller & Neumann, L.L.P.; Stanley J. Krist; Daniel D. King, Bruce B. Kemp, Jerry Kacal of Dunn, Kacal, Adams, Pappas & Law, P.C.; William J. Joseph, Jr. of Young & Hampton

Nature of Case:	Fraud
Trial Length:	9/30/96 - 10/18/96
Represented:	Defendants
Result Obtained:	Verdict for defendants
Style/Docket No.:	Siege Industries, Inc. v. Clark Manufacturing, Inc., d/b/a Sundance Spas, Roland Clark, W. James Clark, and Spa Builders Support Group, Inc., C.A. No. H-94-3180
Court/Judge:	U.S. District Court, Southern District of Texas, Houston Division/Jury before The Honorable Sim Lake
Opposing Counsel:	Steven M. Zager, Joe Michels, Linda Sanchez of Weil, Gotshal & Manges, L.L.P.
Nature of Case:	Patent infringement and breach of contract
Trial Length:	9/3/96 - 9/17/96
Represented:	Plaintiff (Chip Siegel)
Result Obtained:	Verdict for plaintiff on all claims, patent held valid. Damages of \$500,000, plus future royalties.
Style/Docket No.:	Frank A. Benevento II v. RJR Nabisco, Inc., 89 Civ. 6266 (PKL)
Court/Judge:	U.S. District Court, Southern District of New York/Jury before The Honorable Peter K. Leisure
Opposing Counsel:	Melvyn L. Cantor, Michael J. Chepiga of Simpson Thacher & Bartlett
Nature of Case:	Quantum meruit
Trial Length:	10/24/94 - 11/9/94
Represented:	Plaintiff
Result Obtained:	\$14.2 million verdict for plaintiff

Style/Docket No.:	Coastal Oil & Gas Corporation and ANR Production Company v. Tennessee Gas Pipeline Company; No. 3,165
Court/Judge:	49th Judicial District, Zapata County, Texas/Jury before The Honorable Manuel R. Flores
Opposing Counsel:	Thomas R. McDade and Murray Fogler of McDade Fogler & Maines
Nature of Case:	Declaratory judgment that take-or-pay contract requires purchase of additional \$750 million of gas
Trial Length:	10/4/93 - 10/15/93
Represented:	Defendant
Result Obtained:	Verdict for defendant
Style/Docket No.:	Daniel S. Peña, Sr. v. Great Western Resources, Inc.; No. 92-04968
Court/Judge:	165th Judicial District, Harris County, Texas/Jury before The Honorable Elizabeth Ray
Opposing Counsel:	Debora D. Ratliff of Gibbs & Bruns
Nature of Case:	Breach of employment agreement; defense of breach of fiduciary duty charges
Trial Length:	8/16/93 - 9/27/93
Represented:	Plaintiff
Result Obtained:	\$3.3 million verdict for plaintiff
Style/Docket No.:	John Swanson, George Swanson, and George E. Swanson Enterprises (Pty.) Ltd. v. Schlumberger Technology Corporation, Schlumberger Limited, Inc., and DeBeers Consolidated Mines, Ltd., No. 92-10825
Court/Judge:	281st Judicial District, Harris County, Texas/Jury before The Honorable Louis M. Moore

Opposing Counsel:	Linda Addison, Blake Tartt, and Hugh E. Tanner, of Fulbright & Jaworski
Cocounsel:	John M. O'Quinn of O'Quinn & Laminack
Nature of Case:	Fraud and breach of fiduciary duty
Trial length:	5/3/93 - 6/12/93
Represented:	Plaintiffs (J. D. Swanson; George Swanson)
Result obtained:	\$62.5 million verdict for plaintiffs (reversed by Texas Supreme Court)
Style/Docket No.:	Ron Harris, et al. v. Minnesota Mining & Manufacturing Co., No. B1-38809
Court/Judge:	60th Judicial District, Jefferson County, Texas/Jury before The Honorable Gary Sanderson
Opposing Counsel:	Tom Alexander and Richard L. Flowers, Jr. of Alexander & McEvily
Nature of case:	Breach of express and implied warranties
Trial length:	6 weeks (1992)
Represented:	Nishika Corporation (James Bainbridge, President, Ron Harris, Dr. Samantha York, Marleone Gunderson, Marjorie Davis, Nishika Ltd.)
Result obtained:	\$29,873,599 judgment for plaintiffs (reversed by Texas Supreme Court)
Style/Docket No.:	Sunrise Systems, Inc. v. Xerox Corporation, C.A. No. 3:88-CV-0617-X
Court/Judge:	U.S. District Court, Dallas Division/Jury before The Honorable Joe Kendall
Opposing Counsel:	John H. McElhaney of Locke Liddell & Sapp L.L.P.
Nature of case:	Breach of contract

Trial length:	3 weeks (1992)
Represented:	Plaintiff (J. B. Forest of Texas Commerce Bank; J. Jackson Pfeffer)
Result obtained:	Verdict for plaintiff— \$13,074,299, plus interest and attorney fees.
Style/Docket No.:	Brochsteins Inc. v. Whittaker Corporation, C.A. No. H-88-2634
Court/Judge:	U.S. District Court, Houston Division/Jury before The Honorable David Hittner
Opposing Counsel:	Grant Cook of Keck, Mahin & Cate
Nature of case:	Breach of warranty
Trial length:	2 weeks (1992)
Represented:	Plaintiff (Raymond D. Brochstein)
Result obtained:	Settled during trial
Style/Docket No.:	Capital Maritime Corporation v. Amfels, Inc., Far East Livingston Shipbuilding Ltd., John B. Allison and Patrick A. McDermid - C.A. No. H-90-3417
Court/Judge:	U.S. District Court, Houston Division/Jury before The Honorable David Hittner
Opposing Counsel:	Robert A. Hall of Woodard Hall & Primm; Walter E. Workman of Baker & Botts
Nature of case:	Breach of contract and tortious interference
Trial length:	3 weeks (1992)
Represented:	Plaintiff (Per Barre; Glen Every)
Result obtained:	Jury verdict for defendants.

Style/Docket No.:	Electronics in Medicine, Inc., et al. v. Picker International, Inc., C.A. Nos. H-88-1400 and H-89-3283
Court/Judge:	U.S. District Court, Houston Division/Jury before The Honorable Samuel B. Kent
Opposing Counsel:	Anthony F. Montgomery of Hornbuckle & Montgomery
Nature of case:	Defense of monopolization, tying, business disparagement and contract interference case brought by independent service organization against manufacturer of CT scanners. Plaintiff sought \$23 million in actual.
Trial length:	5 weeks (1992)
Represented:	Defendant (Bill Cull, General Counsel; William Webb, Executive Vice-President)
Result obtained:	Jury verdict against plaintiff on all claims except contract interference where jury found \$180,000 actual damages and \$1.9 million punitive damages
Style/Docket No.:	The Hertz Corporation v. Hayes Leasing Company, Inc., et al., No. 90-05708
Court/Judge:	160th Judicial District, Dallas County, Texas/Nonjury before The Honorable Clarence A. Guittard
Opposing Counsel:	Timothy R. McCormick of Thompson & Knight
Nature of case:	Suit to enjoin competitor from deceptive rental rates
Trial length:	One week (1992)
Represented:	The Hertz Corporation
Result obtained:	Injunction granted.
Style/Docket No.:	The Mischer Corporation, et al. v. Heil-Quaker Corporation, et al., No. 88-056121
Court/Judge:	157th Judicial District, Harris County/Jury before The Honorable Solomon Casseb, Jr. (Visiting Judge)

Opposing Counsel:	Tom Alexander of Alexander & McEvily); Robin C. Gibbs and Paul J. Dobrowski of Gibbs & Bruns
Nature of case:	Breach of Contract, Fraud and Fiduciary Duty involving air conditioning equipment joint venture
Trial length:	4 weeks (1991)
Represented:	Defendants (David Cain, General Counsel; Harry J. Forrest, President)
Result obtained:	Jury verdict for defendants
Style/Docket No.:	Hachar's, Inc. v. Enterprise Laredo Associates, et al.
Court/Judge:	49th Judicial District, Webb County, Texas/Nonjury before The Honorable Manuel R. Flores
Opposing Counsel:	Keith E. Kaiser of Cox & Smith Incorporated
Nature of case:	Breach of shopping center lease
Trial length:	3 days (1990)
Represented:	Plaintiff (George L. Hachar, Sr.)
Result obtained:	Judgment for \$3.3 million
Style/Docket No.:	Computer Associates International, Inc. v. Altai, Inc., Civil Action No. CV89-0811 (GCP)
Court/Judge:	U.S.D.C, Eastern District of New York/Nonjury before The Honorable George C. Pratt
Opposing Counsel:	Stephen D. Kahn, New York, New York
Nature of case:	Copyright infringement
Trial length:	7 days (1990)
Represented:	Defendant

Result obtained:	Defendant exonerated
Style/Docket No.:	El Paso Natural Gas Company, et al. v. GHR Energy Corporation, et al., No. 85-09329
Court/Judge:	127th Judicial District, Harris County/Jury before The Honorable Sharolyn Wood
Opposing Counsel:	W. Robert Brown
Nature of case:	Anticipatory repudiation of gas purchase agreement
Trial length:	7 weeks (1988)
Represented:	Defendant/Counterclaimant
Result obtained:	Jury verdict for \$536 million on counterclaim
Style/Docket No.:	Ultramar Indonesia Limited v. Roy M. Huffington, Inc., No 88-55060
Court/Judge:	151st Judicial District, Harris County, Texas/Nonjury before The Honorable Alice O. Trevathan (Arbitration before Damon Capps)
Opposing Counsel:	Richard B. Miller
Nature of case:	Breach of area of mutual interest agreement
Trial length:	3 weeks (1989)
Represented:	Ultramar Indonesia Limited
Result obtained:	Judgment for defendant
Style/Docket No.:	City of Austin, Texas and Lower Colorado River Authority v. Decker Coal Company, C. A. No. A-85-CA-104
Court/Judge:	U.S. District Court, Austin Division/Jury before The Honorable James R. Nowlin

Opposing Counsel:	B. Daryl Bristow of Baker & Botts, L.L.P.
Nature of case:	Breach of long-term coal purchase contract
Trial length:	1 week (1988)
Represented:	Defendant/Counterclaimant
Result obtained:	Settled for \$75 million after one week of trial
Style/Docket No.:	Joe Brand, Inc., et al. v. The Rouse Company, et al., No. 83-CI-07528
Court/Judge:	225th Judicial District, Bexar County/Jury before The Honorable Alfonso Chapa
Opposing Counsel:	W. R. Simcock, San Antonio, Texas
Nature of case:	Breach of right-of-first refusal on anchor space in shopping center
Trial length:	6 weeks (1987)
Represented:	Plaintiff
Result obtained:	Settled for \$6 million as jury returned verdict for \$27 million
Style/Docket No.:	El Paso Natural Gas Company, et al. v. GHR Energy Corporation, et al., No. 85-09327
Court/Judge:	127th Judicial District, Harris County/Nonjury before The Honorable Sharolyn Wood
Opposing Counsel:	W. Robert Brown
Nature of case:	Past breaches of take-or-pay gas purchase contract
Trial length:	6 weeks (1987)
Represented:	Defendant/Counterclaimant

Result obtained:	\$67 million judgment
Style/Docket No.:	Oil Country Specialists, Ltd. v. Philipp Brothers, Inc., et al., No. 85-51500
Court/Judge:	133rd Judicial District, Harris County/Jury before The Honorable Matthew W. Plummer, Sr.
Opposing Counsel:	Ed Junell
Nature of case:	Fraud and breach of contract
Trial length:	6 weeks (1986)
Represented:	Defendant/Counterclaimant
Result obtained:	Judgment on counterclaim in favor of defendant for \$4.1 million, verdict for defendant.
Style/Docket No.:	Harvey Construction Company, et al. vs. General Electric Company, No. 82-18487
Court/Judge:	333rd Judicial District, Harris County, Texas/Jury before The Honorable David Lee Wilson
Opposing Counsel:	Charles B. Kirklin
Nature of case:	Products liability
Trial length:	3 weeks (1986)
Represented:	Defendant
Result obtained:	Verdict for defendant
Style/Docket No.:	Arkansas Gazette Co. v. Camden News Publishing Co., et al., No. LR-C-84-1020
Court/Judge:	U.S.D.C., Eastern District of Arkansas, Western Division/Jury before The Honorable William R. Overton

Opposing Counsel:	Philip S. Anderson, Little Rock, AR 72201
Nature of case:	Antitrust
Trial length:	10 days (1986)
Represented:	Plaintiff
Result obtained:	Verdict for defendant
Style/Docket No.:	Mount Hope Mines, Inc. v. Exxon Corporation, No. 81-30131
Court/Judge:	55th Judicial District, Harris County, Texas/Jury before The Honorable Reagan Cartwright
Opposing Counsel:	David J. Beck of Beck, Redden & Secrest
Nature of case:	Fraud
Trial length:	1 month (1986)
Represented:	Plaintiff
Result obtained:	Verdict for defendant
Style/Docket No.:	David Mitchell Interests v. Sanford E. McCormick, No. 80-30475
Court/Judge:	127th Judicial District, Harris County, Texas/Jury before The Honorable Jack O'Neill
Opposing Counsel:	Morton Susman and Michael P. Kessler of Weil, Gotshal & Manges
Nature of case:	Fraud
Trial length:	2 weeks (1985)
Represented:	Plaintiff
Result obtained:	Verdict for Defendant

Style/Docket No.:	Star Furniture Company v. Stauffer Chemical Company, No. 82-30039
Court/Judge:	55th District Court, Harris County, Texas/Jury before The Honorable Reagan Cartwright
Opposing Counsel:	Walter Conrad of Baker & Botts, L.L.P.
Nature of case:	Breach of contract
Trial length:	1 month (1984)
Represented:	Plaintiff
Result obtained:	Settled before case submitted to jury
Style/Docket No.:	Detroit Lions, Inc., and Billy Sims v. Jerry A. Argovitz, et al., No. 83-CV-5649DT
Court/Judge:	U.S.D.C., Eastern District of Michigan, Southern Division/Nonjury before The Honorable Robert E. DeMascio
Opposing Counsel:	Elbert L. Hatchett, Pontiac, MI 48053
Nature of case:	Breach of contract
Trial length:	3 days (1984)
Represented:	Defendant, Houston Gamblers
Result obtained:	Judgment for plaintiff
Style/Docket No.:	Coastal Distributing Company, Inc. v. NGK Spark Plug Co., Ltd., et al., C. A. No. H-81-1421
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Jury before The Honorable James DeAnda
Opposing Counsel:	Layne E. Kruse of Fulbright & Jaworski L.L.P.
Nature of case:	Antitrust

Trial length:	10 days (1983)
Represented:	Plaintiff
Result obtained:	\$2 million verdict for plaintiff (set aside on motion for judgment)
Style/Docket No.:	Esso Exploration, Inc., et al. v. Offshore Logistics, Inc., et al., C.A. No. 810097
Court/Judge:	U.S.D.C., Western District Louisiana, LaFayette Division/Nonjury before The Honorable W. Eugene Davis
Opposing Counsel:	John T. Nesser III, New Orleans, LA 70130
Nature of case:	Breach of contract
Trial length:	3 days
Represented:	Defendant, Offshore Logistics, Inc.
Result obtained:	Judgment for defendant
Style/Docket No.:	Joseph F. Javor v. Merrill, Lynch, Pierce, Fenner & Smith, Inc., C. A. No. H-81-747
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Jury before The Honorable John V. Singleton
Opposing Counsel:	J. Eugene Clements (Deceased)
Nature of case:	Securities fraud
Trial length:	12 days (1982)
Represented:	Plaintiff
Result obtained:	\$450,000 verdict for plaintiff
Style/Docket No.:	Larry W. Buck v. Frank B. Hall & Co., Inc., No. 78-12758

Court/Judge:	189th District Court, Harris County, Texas/Jury before The Honorable Lynn Hughes
Opposing Counsel:	Irving Stern of Zimmerman, Axelrad, Meyer, Stern & Wise
Nature of case:	Libel and slander
Trial length:	1 month (1981)
Represented:	Plaintiff
Result obtained:	\$2.4 million verdict for plaintiff
Style/Docket No.:	Affiliated Capital vs. Gulf Coast Cable, et al., C. A. No. H-79-1331
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Jury before The Honorable Carl O. Bue
Opposing Counsel:	Richard B. Miller; Rufus Wallingford of Beck, Redden & Secrest
Nature of case:	Antitrust
Trial length:	14 days (1981)
Represented:	Plaintiff
Result obtained:	\$6.3 million verdict for plaintiff
Style/Docket No.:	Texas Federal Pilots, Inc., et al. v. Sabine Pilots Association, C. A. No. B-79-63 CA
Court/Judge:	U.S.D.C., Eastern District of Texas, Beaumont Division/Jury before The Honorable Robert M. Parker
Opposing Counsel:	Tom Lorange of Lorange & Thompson
Nature of case:	Antitrust
Trial length:	3 days (1980)

Represented:	Defendant
Result obtained:	Court granted directed verdict to defendant
Style/Docket No.:	In Re Corrugated Container Antitrust Litigation, M.D.L. No. 310
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Jury before The Honorable John V. Singleton
Opposing Counsel:	Harold Baker of Howrey & Simon; Leslie Arps of Skadden, Arps, Slate, Meagher & Flom; John Irvine of Porter & Hedges
Cocounsel:	Allen Black; Laddie Montague; Jerry Cohen; Charles Kipple
Nature of case:	Antitrust class action
Trial length:	3-1/2 months (1980)
Represented:	Plaintiff class
Result obtained:	Verdict for plaintiffs (judgment quantified at over \$700 million; case settled for \$500 million)
Style/Docket No.:	Beer Wholesales, Inc., et al. v. Hillman Distributing Co., Inc., et al., C. A. No. 74-4-1002
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Jury before The Honorable Woodrow Seals
Opposing Counsel:	Julius Glickman of Glickman, Herlong & Hughes
Nature of case:	Antitrust
Trial length:	12 days (1978)
Represented:	Defendant, Lone Star Beer Company
Result obtained:	Verdict for defendants

Style/Docket No.:	Stitt Spark Plug Co. v. Champion Spark Plug Co., C. A. No. B-76-534
Court/Judge:	U.S.D.C., Southern District of Texas, Beaumont Division/Jury before The Honorable John Fisher
Opposing Counsel:	Robert J. Malinak, Houston, Texas
Nature of case:	Antitrust
Trial length:	10 days (1977)
Represented:	Plaintiff
Result obtained:	Settled before jury verdict returned
Style/Docket No.:	Glen McNew v. Harry Bradley, No. 978,881
Court/Judge:	55th Judicial District, Harris County, Texas/Jury before The Honorable Reagan Cartwright
Opposing Counsel:	Robert S. Friedman, Houston, Texas
Nature of case:	Fraud
Trial length:	5 days (1976)
Represented:	Plaintiff
Result obtained:	Verdict for defendant
Style/Docket No.:	Computer Statistics, Inc. v. Blair, C. A. No. 73-H-1727
Court/Judge:	U.S.D.C., Southern District of Texas, Houston Division/Nonjury before The Honorable John V. Singleton
Opposing Counsel:	Richard Hall, Corpus Christi, Texas
Nature of case:	Antitrust

Trial length:	20 days (1976)
Represented:	Plaintiff
Result obtained:	Judgment for plaintiff

Exhibit C

SUSMAN GODFREY L.L.P.

Kenneth S. Marks Partner

Houston, Texas
Phone: 713.653.7854
Fax: 713.654.3381
kmarks@susmangodfrey.com*

KENNETH S. MARKS, born Houston, Texas; admitted to bar, 1982, New York and Texas.



EDUCATION

- Northwestern University (B.A., 1978)
- University of Texas (J.D., 1981)

HONORS & DISTINCTIONS

- Fraternities: Board of Advocates; Teaching Quizmasters. The Review of Litigation, 1980-81
- Law Clerk to The Honorable Will Garwood, United States Court of Appeals, Fifth Circuit, 1981-82
- Co-author: "Supreme Court Clarifies State-Action Doctrine," N.Y.L.J., July 15, 1980 (with S. Axinn); "Diversity Jurisdiction and Local Bias: A Preliminary Empirical Inquiry," 9 J. Legal Stud. 93 (January 1980) (with J. Goldman)

PROFESSIONAL AFFILIATIONS

- State Bar of Texas
- American Bar Association (Antitrust and Litigation Sections)
- Houston Bar Association

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Exhibit D

SUSMAN GODFREY L.L.P.

Steven G. Sklaver Partner

Los Angeles, California
Phone: 310.789.3123
Fax: 310.789.3014
ssklaver@susmangodfrey.com*

STEVEN G. SKLAVER, admitted to bar 1998, Illinois; 2000, Colorado; 2005, California.



Mr. Sklaver has had tremendous success handling a wide variety of complicated, high-stakes commercial disputes and class actions for plaintiffs and defendants. Mr. Sklaver is experienced in wage and hour litigation, antitrust litigation, contract disputes, intellectual property cases, insurance coverage litigation, accounting malpractice disputes, securities fraud litigation, and many other types of cases. Mr. Sklaver has tried complex commercial and class action disputes – including jury trials and bench trials in federal and state court, as well as arbitrations.

REPRESENTATIVE CLIENT ENGAGEMENTS:

FINANCIAL FRAUD

- Represented Royal Standard Minerals, which was the plaintiff in a federal securities lawsuit against a "group" of more than ten dissident shareholders for failing to file Schedule 13-D disclosures. **RESULT:** Preliminary injunction granted and final judgment entered that, among other things, required for three years the votes of all shares owned by any of the defendants to be voted as directed by the Board of Directors of my client.
- Represented plaintiff who held millions of WorldCom shares as an opt-out to the class in *In re WorldCom Securities Litig.* **RESULT:** Settled on confidential terms.
- Represented plaintiff Accredited Home Lenders in a TRO and breach of contract action over a wrongful default declared by Wachovia in a credit re-purchase agreement. **RESULT:** The case was resolved favorably, following the entry of a TRO.
- Represented Walter Hewlett in his challenge to the Hewlett-Packard/Compaq merger. In preparation for that trial, Mr. Sklaver deposed Compaq's former CEO Michael Capellas about his famous handwritten journal note which, describing the merger, stated "at our course and speed we will fail." Mr. Capellas was right.

EMPLOYMENT

- Represented one of the world's largest retailers in the defense of a four month long jury trial, wage and hour class action pending in California. One of the world's largest retailers appointed Susman Godfrey L.L.P. to be its national trial counsel for wage and hour litigation.

ANTITRUST

- Lead day-to-day lawyer for the class in *White, et al. v. NCAA*, a certified, antitrust class action alleging that the NCAA violated the federal antitrust laws by restricting amounts of athletic based financial aid. ESPN Magazine coverage of the lawsuit may be found [here](#). **RESULT:** The NCAA settled and paid an additional \$218 million for use by current student-athletes to cover the costs of attending college, paid \$10 million to cover educational and professional development expenses for former student-athletes, and enacted new legislation to permit Division I institutions to provide year-round comprehensive health insurance to student-athletes.

ENTERTAINMENT

- Represented NAACP image award winner Morris Taylor "Buddy" Sheffield in his breach of contract lawsuit against ABC Cable Networks Group regarding the creation of *Hannah Montana*. **RESULT:** Defendant settled less than four weeks before trial.

PRO BONO

- Appointed to represent Carl Petersen, who was charged by the United States Attorney's Office with being a felon in possession of a firearm – a charge that carries a five-year prison sentence and an 89% conviction rate. **RESULT:** Acquittal. Jury deliberation lasted less than four hours.
- Appointed by the United States Court of Appeals for the Tenth Circuit as appellate counsel in five cases, including: [*United States v. Petersen*](#); [*United States v. Blaze*](#) (specifically noting Mr. Sklaver's "good workmanship"); and [*Sorrentino v. IRS*](#) (appointed as amicus curiae by and for the Court)

EDUCATION

- Dartmouth College (B.A., *cum laude*)
- Northwestern University School of Law (J.D., *magna cum laude* and Order of the Coif)

HONORS & DISTINCTIONS

- Law Clerk to the Honorable David M. Ebel, United States Court of Appeal for the Tenth Circuit
- Northwestern Law Review member and editor
- National Debate Tournament (NDT) collegiate championship winner

PROFESSIONAL AFFILIATIONS

- United States Supreme Court
- United States Court of Appeals for the Ninth and Tenth Circuits
- United States District Courts for the Central, Southern, Northern, and Eastern Districts of California and District of Colorado
- Admitted to state bars of Illinois, Colorado, and California
- Los Angeles Advisory Board of the National Association for Urban Debate Leagues

AUTHOR

"Federal Power to Commandeer State Courts: Implications for the Theory of Judicial Federalism," 32 Ind. L. Rev. 71 (1998) (with Martin H. Redish, Professor, Northwestern University School of Law).

Exhibit E

SUSMAN GODFREY L.L.P.

David H. Orozco Partner

Los Angeles, California
Phone: 310.789.3104
Fax: 310.789.3011
dorozco@susmangodfrey.com *

DAVID H. OROZCO, born Lyons, Illinois; admitted to bar, 2002, California.



David Orozco handles complex, high-stakes commercial disputes for plaintiffs and defendants, in a wide variety of matters, including antitrust, labor, class actions, intellectual property, securities, contract, and tort and product liability. Mr. Orozco has substantial trial experience and has tried to verdict a number of cases in state and federal courts across the country. Those cases include a consumer class action against the nation's major telecommunications carriers, the defense of a class action on behalf of one of the world's largest retailers, and a massive antitrust action against one of the largest medical device companies in the world. Mr. Orozco has conducted the direct and cross examinations of key fact and expert witnesses at trial, argued and won significant motions in state and federal court, and defended these results on appeal.

Most recently, after a six-week trial in federal court in Kansas City, Mr. Orozco obtained a \$17 million dollar verdict for breach of contract on behalf of a class of California telephone consumers against AT&T. (The case is currently on appeal to the Tenth Circuit for the second time). Prior to trial, Sprint reached a settlement with the plaintiff class worth \$25 million in phone cards. Mr. Orozco also succeeded in helping a different class obtain a settlement from Sprint in a consumer fraud case filed in California state court.

Mr. Orozco has extensive experience in antitrust matters. Currently, he is representing Tessera Technologies in its antitrust action against DRAM chip manufacturer Hynix. Tessera alleges that Hynix conspired with several other DRAM manufacturers to suppress the adoption of Tessera's patented packaging technology designed for use with the revolutionary memory chip technology known as RDRAM. After extensive international discovery, the case is set for trial later this year. Mr. Orozco and Susman Godfrey L.L.P. also represent plaintiffs in numerous antitrust class actions as lead counsel.

Mr. Orozco has also arbitrated cases before domestic and international tribunals. Mr. Orozco and his Houston-based colleague Harry Susman represented Tequila Herradura, the largest tequila manufacturer in Mexico, in a dispute with its United States distributor. Shortly after receiving the decision in the arbitration, Herradura sold its assets for almost \$800 million.

In addition to recovering substantial sums for plaintiffs, Mr. Orozco has successfully defended clients facing multi-million and multi-billion dollar claims. In 2007, Mr. Orozco defended one of

the world's largest retailers in a wage and hour class action, tried to verdict over three months in Minnesota state court. That same year, Mr. Orozco defended an airline parts manufacturer at trial in Daytona Beach, Florida.

In addition to recovering substantial sums for plaintiffs, Mr. Orozco has successfully defended clients facing multi-million and multi-billion dollar claims. In Minnesota state court, Mr. Orozco defended one of the world's largest retailers in a wage and hour class action, tried to verdict over three months. That same year, Mr. Orozco defended an airline parts manufacturer at trial in Daytona Beach, Florida.

Mr. Orozco encourages potential clients to speak with his former clients, former co-counsel and even opposing counsel - please see a partial list of references and phone numbers below - about his work inside the courtroom and beyond.

Mr. Orozco has been recognized by his peers as a "California Rising Star" for five consecutive years.

Mr. Orozco serves as a member of the Board of Directors of the Mexican-American Bar Foundation (www.themabf.org). Mr. Orozco also is a member of the Advisory Board of the East Palo Alto Mural Art Project (www.epamap.org).

Mr. Orozco is married to Susman Godfrey partner, Victoria L. Cook. They reside in Venice, California.

EDUCATION

- University of Illinois at Urbana-Champaign (B.A., *magna cum laude*, 1994)
- Stanford Law School (J.D., with distinction, 2001)

HONORS & DISTINCTIONS

- Phi Beta Kappa
- Editor, Stanford Law Review
- Law Clerk to The Honorable Michael S. Kanne, United States Court of Appeals for the Seventh Circuit

PROFESSIONAL AFFILIATIONS

- American Bar Association
- Hispanic National Bar Association
- Los Angeles County Bar Association

REFERENCES

Name	Company	Phone
Lester Kaney	Cobb Cole	386.323.9233
Joseph Goldberg	Freedman Boyd Hollander Goldberg & Ives P.A.	505.842.9960
Chuck Douglas	Sidley Austin LLP	312.853.7706
Jeff Kavy	Clemens & Spencer	210.227.7121
David Giardina	Sidley Austin LLP	312.853.4155

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Exhibit F

SUSMAN GODFREY L.L.P.**2010 HOURLY RATES**

<u>Attorneys</u>	<u>Hourly Rate</u>
Stephen D. Susman	\$1,100
H. Lee Godfrey	\$950
William C. Carmody	\$900
Marc M. Seltzer	\$850
Barry C. Barnett	\$800
Mark L. D. Wawro	\$800
Neal S. Manne	\$800
Terrell W. Oxford	\$800
Kenneth E. McNeil	\$750
Parker C. Folse, III	\$750
Robert Rivera, Jr.	\$750
Geoffrey L. Harrison	\$700
Jacob W. Buchdahl	\$700
Kenneth S. Marks	\$700
Max L. Tribble	\$700
Vineet Bhatia	\$700
Charles R. Eskridge, III	\$600
Eric J. Mayer	\$600
J. Hoke Peacock III	\$600
Jonathan Jeffrey Ross	\$600
Karen A. Oshman	\$600
Mary K. Sammons	\$600
Michael A. Lee	\$600
Ophelia F. Camina	\$600
Erica W. Harris	\$550
Harry P. Susman	\$550
James T. Southwick	\$550
Johnny W. Carter	\$550
Joseph S. Grinstein	\$550
Katherine G. Treistman	\$550
Stephen E. Morrissey	\$550
Thomas W. Paterson	\$550
Kenneth E. Gardner	\$500
Michael L. Diehl	\$350

EXHIBIT A

SUSMAN GODFREY L.L.P.**2010 HOURLY RATES***Continued.....*

Sandeep Seth	\$500
Steven G. Sklaver	\$500
Stuart V. Kusin	\$500
Brian D. Melton	\$475
Justin A. Nelson	\$475
Brooke A. Taylor	\$450
David H. Orozco	\$450
Drew D. Hansen	\$450
Edgar G. Sargent	\$450
Floyd G. Short	\$450
Ian B. Crosby	\$450
Kathryn P. Hoek	\$450
Rachel S. Black	\$450
Shawn L. Raymond	\$400
Victoria L. Cook	\$450
William R. Merrill	\$450
Amy T. Brantly	\$425
Shawn J. Rabin	\$425
Suyash Agrawal	\$425
Tibor Nagy	\$425
Jonathan E. Bridges	\$400
Lindsey N. Godfrey	\$400
Jeremy J. Brandon	\$375
Aimee M. Robert	\$350
Alexander L. Kaplan	\$350
Anne E. Mullins	\$350
Arun Subramanian	\$350
Chanler A. Langham	\$350
Daniel H. Charest	\$350
Kalpana Srinivasan	\$350
Lexie G. White	\$350
Richard W. Hess	\$350
Warren T. Burns	\$350
Daniel J. Shih	\$325
Daniel J. Walker	\$325

SUSMAN GODFREY L.L.P.**2010 HOURLY RATES***Continued.....*

David Michael Peterson	\$325
Genevieve Vose	\$325
Joseph Portera	\$325
Matthew R. Berry	\$325
Rebecca Tinio	\$325
Robert S. Safi	\$325
Ryan C. Kirkpatrick	\$325
Stephen L. Shackelford, Jr	\$325
Yvonne Y. Ho	\$325
Amira M. El-Hakam	\$250
Bryan J. Caforio	\$250
Christopher Hogan	\$250
Jennifer L. Greenblatt	\$250
Joe G. Conley	\$250
Jordan Connors	\$250
Kyle A. Casazza	\$250
Nabeel Peracha	\$250
Sammy Ford IV	\$250
Seth Ard	\$250

Paralegals and Others**Hourly Rate**

Paralegals	\$80 - 250
Briefing Clerks	\$60
Document Clerks	\$30

**On occasion, where appropriate, Susman Godfrey may employ contract attorneys, which the firm will supervise, to perform certain legal tasks.*

EXHIBIT A